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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/066,763

02/06/2002

Jung Man An

K-0390

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07/03/2006

FLESHNER & KIM, LLP

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EXAMINER

RUDY, ANDREW J

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                    |              |  |
|------------------------------|--------------------|--------------|--|
| <b>Office Action Summary</b> | Application No.    | Applicant(s) |  |
|                              | 10/066,763         | AN, JUNG MAN |  |
|                              | Examiner           | Art Unit     |  |
|                              | Andrew Joseph Rudy | 3627         |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) 7-20 and 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 25-28 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Applicant elected Figure 3 on September 12, 2005. Claims 25-28 are directed towards non-elected Figure 4.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 25-28 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Also, claims 7-20 remain withdrawn from consideration as drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant's April 6, 2006 REMARKS have been reviewed, but are not convincing.

Applicant's AMENDMENT does not clarify the previous 35 USC 112 rejection.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1, amended lines 2-3 are not supported from the original specification, e.g. page 12 [48] thru page 18 [62]. As is the metes and bounds of the claim language may not be properly ascertained.

***Claim Rejections - 35 USC § 103***

5. Claims 1-6, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Pawson, US 6,944,585.

Pawson discloses a server, e.g. 110, providing audio visual data digital contents, e.g. 130, through one transmission path, e.g. bandwidth path 150. The popularity of the content may be measured and the digital content may be altered as a result thereof. Pawson does not disclose first and second steps. However, as understood, to have provided the recited first and second steps would have been obvious to one of ordinary skill in the art. Further, Official Notice is taken that storing digital content and inter-relating such content to an advertisement and outputting such has been common knowledge in the media art. To have implanted such for Pawson would have been obvious to one of ordinary skill in the art.

Applicant's REMARKS regarding "according to a predetermined rule without customizing contents according to user's information" is noted. However, this is not consistent with Applicant's claim language. It is further noted that the terms "service unit data" and "advertisement contents" do not provide any line of demarcation over the disclosure of Pawson. The terms are extremely broad in scope and content.

Applicant's attempt at traversing the Official Notice findings as stated in the previous Office Action mailed December 6, 2005 is inadequate. Adequate traversal is a two step process. First, Applicant must state their traversal on the record. Second, and in accordance with 37 C.F.R. § 1.111(b) which requires Applicant to specifically point out the supposed errors in the Office Action, Applicant must state why the Office Action statements are not to be considered common knowledge or well known in the art.

In this application, while Applicant has clearly not met step (1) as no traversal of Official Notice was made. Also, Applicant has failed step (2) since they have failed to argue why the Official Notice statements are not to be considered common knowledge or well known in the art. Applicant's statement from pages 13-14 of the REMARKS about Pawson not disclosing the features does not specifically address the portion that was taken as Official Notice. Because Applicant's traversal is inadequate, the Official Notice statements are taken to be admitted as prior art. See, MPEP § 2144.03

7. Further pertinent references of interest that disclose Applicant's invention are noted on the attached PTO-892.

***Conclusion***

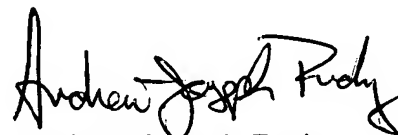
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Joseph Rudy  
Primary Examiner  
Art Unit 3627